

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION
www.flmb.uscourts.gov

In re:

ElHAB H. TAWFIK, M.D., P.A.,

Debtor.

CASE NO.: 3:18-bk-01164-JAF
CHAPTER 11

Emergency Hearing Requested on or before
Friday, April 13, 2018

**DEBTOR'S EMERGENCY MOTION
FOR AUTHORITY TO USE CASH COLLATERAL AND
REQUEST FOR EMERGENCY PRELIMINARY HEARING**

ElHAB H. TAWFIK, M.D., P.A., ("Debtor") by and through its undersigned counsel, hereby files this motion seeking entry of an interim order, substantially in the form attached hereto as **Exhibit "B"** (the "Interim Order") authorizing the Debtor's use of cash collateral (as defined in section 363(a) of the Bankruptcy Code, "Cash Collateral") pursuant to 11 U.S.C. §§363(c)(2) and 363(e) and Federal Rule of Bankruptcy Procedure 4001(b)(1), and in support thereof states:

Background

1. On April 11, 2018 (the "Petition Date"), the Debtor filed its petition for relief under Chapter 11 of Title 11 of the United States Code ("Code"). Debtor continues to operate its business and manage its property as a debtor-in-possession under §§ 1107 and 1108 of the Code.

2. Debtor owns and operates medical clinics in five locations in the Central Florida area. Those locations are located in Crystal River (2 locations), Celebration, Ocala, and Spring Hill. The clinics provide patients with services including, but not limited to, internal medicine, urgent care, cardiology, diabetes treatment, podiatry, full imaging services and pain management. The Debtor's business and revenue is generated from claims submitted to Medicare (60% of revenue), Medicaid (30% of revenue) and private insurance (10%).

3. Additional background information relating to the Debtor, including its current and historical business operations and the events precipitating its chapter 11 filing, is set forth in detail in Debtor's Case Management Summary, filed concurrently with this Motion and incorporated herein by reference.

Cash Collateral and the Relief Sought by the Debtor

4. In order to avoid immediate and irreparable harm to the estate, Debtor requires the use of Cash Collateral to pay operating expenses as set forth in the Budget (defined below), which will govern the use of cash collateral pending a final hearing on this Motion (the "Interim Period").

5. During the Interim Period, Debtor projects the following: (a) total receipts in the amount of approximately \$350,000.00 representing Cash Collateral; and (b) total disbursements in the amount of approximately \$344,900.00. Net cash for the Interim Period is projected to be \$15,100.00. A budget showing estimated income and expenses for the Debtor for the next four weeks (the "Budget") is attached hereto as **Exhibit "A"** and is incorporated herein by reference. Based on the Budget, the Debtor anticipates that it will operate on a positive cash flow basis.

6. The Cash Collateral, which the Debtor seeks to use, is comprised in whole or in part of cash on hand and funds to be received from food sales during normal operations. Central Bank may assert a first priority security interest in the Debtor's personal property, including cash generated by Debtor's operations by virtue of a blanket lien on the Debtor's personal property. As of the Petition Date, Debtor owes Central Bank approximately \$2,600,000.00 on a equipment loan secured by a lien on Debtor's personal property and certain medical equipment. Central Bank has recorded a UCC-1 financing statement which purports perfect its security interest. In addition, inferior interests may claim an interest in the Debtor's revenues; however, Debtor believes that such

inferior interests are wholly unsecured due to the outstanding amounts owed to creditors with superior security interests in Debtor's property.

7. As the Debtor has no unencumbered funds,¹ the Debtor requires the use of such Cash Collateral to fund the day-to-day expenses of this chapter 11 case. Unless the Court authorizes the use of Cash Collateral to fund the day-to-day expenses of its operations, Debtor's efforts to reorganize, and to meet the costs and expenses of this chapter 11 case, will be significantly impaired.

8. The Debtor believes that Central Bank's interest in Cash Collateral is adequately protected for any Cash Collateral that the Debtor may use. As adequate protection, Debtor proposes to grant Central Bank replacement liens in the Debtor's post-petition assets, and proceeds of same, to the same extent, priority and validity as its pre-petition liens, to the extent Debtor's use of Cash Collateral results in a decrease in the value of Central Bank's interest in the Cash Collateral.

9. If the Debtor is not permitted to use Cash Collateral, it will be forced to halt operations, creating an adverse effect on creditors and employees, and will likely eliminate the total value of assets pledged as collateral. Thus, Debtor believes that the protections outlined herein are fair and reasonable under the circumstances and will be sufficient to protect the interests of Debtor's secured creditors' collateral from a diminution in value during the period of use by the Debtor. Accordingly, under the circumstances of this Chapter 11 case, the granting of the relief requested in the Motion is warranted.

¹ Nothing herein may be construed as an admission of the Debtor as to the validity or priority of the security interests asserted by Central Bank or the Inferior Interests. The Debtor expressly reserves the right to challenge the validity and priority of such interests to the fullest extent allowed under the Bankruptcy Code.

WHEREFORE, the Debtor respectfully requests this Court enter an order granting the request for an emergency hearing, the request to use Cash Collateral, and for such other and further relief as is just and proper.

RESPECTFULLY SUBMITTED this 12th day of April 2018.

/s/ Justin M. Luna, Esq.

Justin M. Luna, Esq.

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Attorneys for Debtor

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION
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CASE NO.: 3:18-bk-01164-JAF
CHAPTER 11

EIHAB H. TAWFIK, M.D., P.A.,

Debtor.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of DEBTOR'S EMERGENCY MOTION FOR AUTHORITY TO USE CASH COLLATERAL AND REQUEST FOR EMERGENCY PRELIMINARY HEARING, together with all exhibits, has been furnished either electronically or by U.S. First Class, postage prepaid mail to: **Eihab H. Tawfik, M.D., P.A.**, c/o Eihab H. Tawfik, 7394 West Gulf to Lake Highway, Crystal River, Florida 34429; Central Bank, c/o Megan W. Murray, Esq., 101 E. Kennedy Blvd., Suite 1700, Tampa, Florida 33602; all creditors as shown on the matrix attached hereto, and the U.S. Trustee, 400 W. Washington Street, Suite 1100, Orlando, Florida 32801, this 12th day of April 2018.

/s/ Justin M. Luna

Justin M. Luna, Esq.

Label Matrix for local noticing
113A-3
Case 3:18-bk-01164-JAF
Middle District of Florida
Jacksonville
Thu Apr 12 14:20:42 EDT 2018

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Jacksonville, FL 32202-3658

Baytree Nat. Bank & Trust Co
664 N Western Ave.
Laek Forest, IL 60045-1951

CCM Capital Collection Mgmt
115 Solar Street, Suite 100
Syracuse, NY 13204-5407

CT Lien Solutions
PO Box 29071
Glendale, CA 91209-9071

Central Bank
c/o Megan W. Murray, Esq.
101 E Kennedy Blvd, Ste 1700
Tampa, FL 33602-3647

Citrus Diabetes Treatment
Center, LLC
7450 W. Gulf to Lake Hwy
Crystal River, FL 34429

Corporation Service Co.
801 Adlia Stevenson Dr
Springfield, IL 62703-4261

DLI Assets Bravo, LLC
550 N. Brand Blvd. Ste. 2000
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ELM Services
PO Box 15270
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Megan W. Murray
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c/o Jay P. Lechner, Esq.
One Progress Plaza
200 Central Ave., #400
St. Petersburg, FL 33701-4356

Citrus County Tax Collector
210 N. Apopka Ave Ste 100
Inverness FL 34450-4298

Colonial Funding Network
120 West 45th Street
New York, NY 10036-4195

Corporation Service Co.
PO Box 2576
Springfield, IL 62708-2576

Danco Medical, Inc.
c/o Ashley H. Lukis, Esq.
PO Box 11189
Tallahassee, FL 32302-3189

First Coast Service Options
Medicare Part B Overpayment
PO Box 45248
Jacksonville, FL 32232-5248

Eihab H. Tawfik, M.D., P.A.
7394 West Gulf to Lake Highway
Crystal River, FL 34429-7802

Balboa Capital Corp.
575 Anton Blvd., 12th Floor
Costa Mesa, CA 92626-7169

CAPALL, LLC
122 East 42nd St., Ste. 2112
New York, NY 10168-2100

CT Corporation System
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330 N. Brand Blvd, Ste 700
Glendale, CA 91203-2336

Central Bank
20701 Bruce B. Downs Blvd
Tampa, FL 33647-3676

Citrus Diabetes Treatment
Center, LLC
7394 W. Gulf to Lake Hwy
Crystal River, FL 34429-7802

Complete Business Solutions
22 North 3rd Street
Philadelphia, PA 19106-2113

Creekridge Capital, LLC
7808 Creekridge Cir. Ste 250
Edina, MN 55439-2647

Dr. Eihab H. Tawfik, MD
7394 West Gulf to Lake Highway
Crystal River, FL 34429-7802

First Corporation Solutions
914 S. Street
Sacramento, CA 95811-7025

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Bankruptcy Unit
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Tallahassee, FL 32314-6668

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Bradenton, FL 34205-8432

GE Healthcare
c/o Richard P. Joblove, Esq.
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Miami, FL 33156-5223

Gurley Vitale, P.A.
Attn: J. Ben Vitale, Esq.
601 S. Osprey Ave.
Sarasota, FL 34236-7526

Huntington Tech. Finance
2285 Franklin Road
Bloomfield Hills, MI 48302-0364

IberiaBank
PO Box 53207
Lafayette, LA 70505-3207

Internal Revenue Service
PO Box 7346
Philadelphia, PA 19101-7346

Key Equipment Finance Inc.
1000 South McCaslin Blvd.
Superior, CO 80027-9441

LiftForward, Inc.
c/o LF Collateral SPV I, LLC
180 Maiden Lane, 10th Floor
New York, NY 10038-5178

Lysoft Media
c/o Colonial Funding Network
120 West 45th Street
New York, NY 10036-4195

Macquarie Equipment Finance
2285 Franklin Rd., Ste. 100
Bloomfield Hills, MI 48302-0363

McKesson Corporation
401 Mason Road
La Vergne, TN 37086-3243

Medicare Part B Cash Mgmt
c/o First Coast Srvc Options
PO Box 44141
Jacksonville, FL 32231-4141

Merchant Cash & Capital LLC
450 Park Ave. S., 11th Floor
New York, NY 10016-7320

National Radiology Sol Group
101 Alycia Drive
Richmond, KY 40475-2368

Navitas Credit Corp.
P.O. Box 935204
Atlanta, GA 31193-5204

Navitas Lease Corp. ISAOA
111 Executive Dr., Ste. 102
Columbia, SC 29210-8414

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Pamela Rizzo-Alderson
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Arlington, VA 22203-1547

Secretary of the Treasury
15th & Pennsylvania Ave., NW
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Secured Lender Solutions LLC
PO Box 2576
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Stress Free Capital, LLC
2501 Hollywood Blvd, Ste 210
Hollywood, FL 33020-6632

U.S. Securities & Exchange Commission
Office of Reorganization
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Suite 900
Atlanta, GA 30326-1382

US Dept of Treasury
Bureau of the Fiscal Service
PO Box 830794
Birmingham, AL 35283-0794

US Dept of Treasury
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St. Louis, MO 63197-9000

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United States Trustee - JAX 11 +
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Elena L Escamilla +
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Trenam Kemker
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Tampa, FL 33602-5170

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Jerry A. Funk
Jacksonville

(d)IBERIABANK
c/o Michael S. Waskiewicz, Esq.
Burr & Forman LLP
50 N. Laura Street, Suite 3000
Jacksonville, FL 32202-3658

(u)Note: Entries with a '+' at the end of the
name have an email address on file in CMECF

Note: Entries with a '-' at the end of the
name have filed a claim in this case

End of Label Matrix
Mailable recipients 64
Bypassed recipients 3
Total 67

Eihab H. Tawfik, M.D., P.A.

Week Of:	April 8, 2018	April 16, 2018	April 23, 2018	April 30, 2018
Income				
Revenue	\$87,500.00	\$87,500.00	\$87,500.00	\$87,500.00
Total Income	\$87,500.00	\$87,500.00	\$87,500.00	\$87,500.00
Expenses				
Payroll Taxes & Fees	\$ 50,000.00	\$ -	\$ 95,000.00	\$ -
1099 Payroll	\$ -	\$ 10,000.00	\$ -	\$ 10,000.00
Medical Billing Processor	\$ 2,625.00	\$ 2,625.00	\$ 2,625.00	\$ 2,625.00
Radiology Reading	\$ -	\$ -	\$ 15,000.00	\$ 15,000.00
Supplies	\$ 12,500.00	\$ 12,500.00	\$ 12,500.00	\$ 12,500.00
Utilities	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00
Technical Support/Internet/Phones	\$ -	\$ 8,000.00	\$ -	\$ -
Property Insurance	\$ -	\$ 10,000.00	\$ -	\$ -
Malpractice Insurance	\$ -	\$ -	\$ -	\$ 20,000.00
Celebration Office Rent	\$ -	\$ -	\$ -	\$ 5,500.00
Springhill Office Rent	\$ -	\$ -	\$ -	\$ 3,200.00
Ocala Office Rent	\$ -	\$ -	\$ -	\$ 1,700.00
Equipment Maintenance	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00
Pharmacy Rent/Medication	\$ 5,250.00	\$ 5,250.00	\$ 5,250.00	\$ 5,250.00
Total Building Expenses	\$ 75,375.00	\$ 53,375.00	\$ 135,375.00	\$ 80,775.00
Cash Balance				
Beginning Cash Balance	\$ 10,000.00	\$ 22,125.00	\$ 56,250.00	\$ 8,375.00
Receipts	\$ 87,500.00	\$ 87,500.00	\$ 87,500.00	\$ 87,500.00
Expenses	\$ 75,375.00	\$ 53,375.00	\$ 135,375.00	\$ 80,775.00
Ending Cash Balance	\$ 22,125.00	\$ 56,250.00	\$ 8,375.00	\$ 15,100.00

EXHIBIT "A"

EXHIBIT "B"

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
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In re:

**CASE NO.: 3:18-bk-01164-JAF
CHAPTER 11**

EIHAB H. TAWFIK, M.D., P.A.,

Debtor.

**FIRST INTERIM ORDER GRANTING DEBTOR'S EMERGENCY MOTION
TO USE CASH COLLATERAL AND NOTICE OF CONTINUED HEARING**
[Continued Hearing:]

THIS CASE came on for emergency preliminary hearing on _____, 2018 (the "Hearing") upon the *Emergency Motion to Use Cash Collateral*, filed by Eihab H. Tawfik, M.D., P.A. (the "Debtor") on April 12, 2018 (Doc. No. __) (the "Motion"). Upon consideration of the Motion, the evidence presented, the arguments of counsel present at the Hearing, it is

ORDERED:

1. Interim Authorization Granted. The Motion is granted on an interim basis as provided herein.

2. Cash Collateral Authorization. Subject to the provisions of this order, the Debtor is authorized to use cash collateral to pay: (a) amounts expressly authorized by this Court, including payments to the United States Trustee for quarterly fees; (b) the current and necessary expenses set forth in the budget attached as Exhibit A attached to the Motion, plus an amount not to exceed ten (10) percent for each line item; and (c) such additional amounts as may be expressly approved in writing by Central Bank. This authorization will continue through _____, however, the parties may jointly agree to extend the authorization by submitting an agreed order reflecting such extension. Except as authorized in this order, the Debtor is prohibited from the use of cash collateral.

3. Debtor Obligations. The Debtor shall timely perform all obligations of a debtor-in-possession required by the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, and the orders of this Court.

4. Replacement Lien. Central Bank shall have a perfected post-petition lien against cash collateral to the same extent and with the same validity and priority as the prepetition lien, without the need to file or execute any documents as may otherwise be required under applicable non-bankruptcy law.

5. Insurance. The Debtor shall maintain insurance coverage for its property in accordance with the obligations under the loan and security documents with Central Bank.

6. Without Prejudice. This Order is without prejudice to: (a) any subsequent request by a party-in-interest for modified adequate protection or restrictions on use of Cash Collateral; or (b) any other right or remedy which may be available.

7. Creditors Committee. The provisions of this Order are without prejudice to the rights of the United States Trustee to appoint a committee or any rights of a duly-appointed

committee to timely challenge the validity, priority, or extent of any lien(s) asserted against cash collateral.

8. Enforcement. The Court shall retain jurisdiction to enforce the terms of this Order.

Attorney Justin M. Luna is directed to serve a copy of this order on interested parties and file a proof of service within three (3) days of entry of the order.